OBSERVATIONS

ON

THE REV. DR. GANNETT'S SERMON,

ENTITLED

"Relation of the North to Slavery."

REPUBLISHED FROM THE EDITORIAL COLUMNS OF THE

BOSTON COURIER,

OF JUNE 28TH AND 30TH, AND JULY 6TH, 1854.

BOSTON:
REDDING AND COMPANY,
8 STATE STREET.
1854.

J. S. POTTER & CO., PRINTERS,
2 Spring Lane and 120 Washington Street, Boston.

OBSERVATIONS.

I.

WHERE ARE WE GOING?

An admirable editorial article in the Journal of last Saturday, on "The Military and the Citizens," may well be followed by some reflections on the state of feeling towards the Union, now existing in Massachusetts among large classes of her citizens. We do not wish to deny,—we could not do so if we would,—that one of the late measures of Congress has produced this feeling. We did everything in our power to warn the country against the consequences of that measure, and to prevent its passage. Perhaps it is not even now too late to repair the wrong that has been done. But before the means by which this is to be done can be considered, we have to inquire soberly where our resentment against an unjust and unwise act of legislation is carrying us, and whether it may not deprive us of all power to restore the compromise of 1820 to its true position.

The evidence exists all around us, that there is now a strong disposition here in Massachusetts, to treat the government of the United States, at least in regard to one of its functions, as if it were a foreign power, whose authority over us we may and ought to bring to the test of actual resistance. We refer, of course, to the feeling existing in the matter of restoring fugitives from service to the states from which they come;—and we say that this feeling amounts, in large classes of persons, to such a state of hostility towards the authority of the Union, as leads them to seek for palliations of their own and others' conduct, in a fancied analogy to the conduct of our fathers towards the government of George III. We have the evidences of this, not only in the acts and sentiments of the

fanatics, whose head-quarters are to be found in a building from which dangerous missiles have been thrown upon the conservators of the peace, but we have it in the efforts made by presses *not* conducted by fanatics, to excite bad passions against the citizen-soldiery, who have patriotically discharged a duty appropriate to their organization, and required by laws which we ourselves have enacted. We have it in the numerous pulpits, which are now preaching the doctrine that a moral question has arisen, of so deep and transcendant a character, that we are required by it to approach the alternative of a dissolution of the Union; pulpits which inculcate the idea that the act of the government, in transferring a man by process of law, and on the clearest evidence, from the state of Massachusetts where he does not belong, to the state of Virginia where the Constitution of the country places him, is an act of the last degree of oppression and indignity to us, and to our moral sense, against the repetition of which we ought to protect ourselves, at every hazard and every cost. We have it in the proceedings of large public meetings, of which at least two have been held—one in this city, in Faneuil Hall, and one in New Bedford—at both of which open resistance to a law of the United States has been counselled; and at the latter of which those who are the subjects of that law, have been advised to arm themselves and "shoot down" the officers of the government. Finally, we have it in the arguments and excuses with which a considerable part of the press is teeming, which represent our oppressions and indignities as the same in kind, and as fit to be encountered by the same means, as those which drove our fathers into revolution.

But lest we should be supposed to have misrepresented the state of things about us, we will cite a single specimen of the tone of the pulpit; and we take it from a sermon preached by one of the ablest and best men among us, a man of sincere piety, and wholly free from fanaticism—the pastor of one of the most intelligent and cultivated congregations in this city—the Rev. Dr. Gannett. This gentleman, without any excitement, but in language of deep feeling, soberly and carefully measured, has put to his hearers and to the public, what he allows to be the "fearful issue," of a dissolution of the Union—as an issue which "conscience and duty, self-respect and our holiest persuasions," call upon us to embrace, rather than have a law executed here, which requires the restitution of fugitives from service coming to us from other states. We take the following extract from his sermon:

"Fourthly, we may proceed to rescue our own soil from being trampled by those whose attempts to reclaim their fugitive servants are conducted in a manner to wound our sensibilities and provoke our passions. I repeat, that while a law stands in force, we must either consent to its execution or bear the penalty of disobedience. But when the execution of that law not only inflicts a pang on our moral nature, but is made doubly painful by the frequency and zeal with which it is carried into effect, we cannot, or if we can, we ought not, to fold our arms and close our lips, in patient acquiescence. The principle of the present fugitive slave law was embodied in the similar act of Congress passed more than half a century ago, but for more than fifty years the South was content that the act should remain comparatively inoperative; let it take the same course now, and the North would acquiesce in the legal validity of a claim seldom enforced. But if the South evince a determination to put Northern feeling to a trial on this question, whenever it shall have an opportunity, Northern men will not consent to witness often such scenes as we were made to endure a few days since. The question will not be simply, whether a law shall be executed or be resisted; a deeper question will arise, when the Southern master shall use the free states as the ground on which to assert the immaculate character of slavery. The alternative will then present itself, whether we will become ready participants in upholding a system which we abhor, or will seek a dissolution of the bond which holds us and the South together. This is sad language, and fearful. I know what it means, and what it suggests. But the facts which wring such language from us are sad and fearful. I have loved the Union as dearly, perhaps, as any one. I have clung to it as the guide and hope of the oppressed nations of the world. I have lost friends and been traduced,—that is no matter, except as it shows how I have spoken—because I maintained that the Union must be preserved at almost any cost. I say so now. But it may cost us too much. If every manly, and honest, and Christian sentiment must be subjected to continual indignity, then will sober men, who have loved the Union and clung to it, ask whether a peaceable separation with all its prospective issues, would not be preferable. We do not want what has been justly styled "the characteristic of Southern civilization" made familiar to our eyes, and we shall not be able, I think, to bear it. Not as threatening or braving the South do we so speak. We believe the Southern part of our country

would suffer more than we from disunion. But the relative prosperity of the two sections cannot be permitted to decide a question of such moral import as this. In sorrowful, not in passionate emphasis we say, that if the South insist on making the North the scene of its activity in maintaining an institution from which the conscience and the heart of the North revolt, it will compel us to ask in serious and solemn deliberation, is the Union worth preserving on that condition?"

We are, of course, all called upon to examine for ourselves the soundness and correctness of these and similar sentiments, now so much agitated.

Most persons, we imagine, will find that they can best approach the solution of this, as well as of any other moral question, by sweeping away from it all false analogies and all impracticable courses of conduct, which only tend to shut out the truth.

Proceeding in this way, we shall probably find that the sooner we get rid of the notion that there is any resemblance between our relations to the government of the United States, in this matter, and our former relations with our mother country, the more freely and truly will our moral perceptions be able to operate. In the first place, we were never represented in the body which passed the Stamp Act, or the Boston Port Bill, or the other obnoxious measures that produced the Revolution; they had the authority of law for us only just so far as they could be enforced by the executive, who was the common sovereign of that country and of this, we denying all the while that Parliament could legislate for the Colonies. Those measures, therefore, when sought to be enforced here, were acts of mere arbitrary power, and in no sense acts of legislation to which our express or implied assent could be said to have been given. But the obnoxious statute of which we are now complaining is a legislative act of a government which we helped to create, and in every branch of which we have been constantly and fully represented. It is the act of our own government—of a government that is as absolutely and exactly ours, as the government of our separate state is. Whether our particular votes were or were not given to it cannot make it any the more or any the less binding upon us as a law, in the making of which we were represented. But it is of great significance that the thing which this law undertakes to do—the rendition of fugitives from service—was deliberately and

solemnly stipulated and promised by us as a thing that should be done, in a Convention in which we were fully represented, and in which every one of our votes was given to it, when the instrument which constitutes the government was framed and signed. It is manifest, therefore, that when a moral question is raised, whether we should be justified in breaking not merely an implied promise, but a direct and actual promise made through our representatives in the Convention that framed the Constitution, that question can receive no aid from our former conduct in a case where we were never represented at all, and where no promise, either express or implied, was ever admitted by us to have been made.

In the next place, we may as well disabuse ourselves of the notion of "peaceable separation." There is no such thing possible under the sun. The separation of these colonies from Great Britain was a possible thing, but it was *not* "peaceable." The separation of a state from this Union, is a moral and physical impossibility. How is it to be done? Is the government of the United States to be expelled from our territory;—its courts to be prohibited from sitting here; its revenue not to be collected in our ports; its mails to be stopped; its dock-yards and arsenals to be seized? If we could be mad enough to think of such a mad project, one week might produce occurrences, from the effects of which ages might be required to relieve us. But perhaps some earnest and conscientious person may have a dim idea that a state might separate from the Union, by consent. Such consent could not possibly be given. The United States could not tolerate the separate and independent existence of any state, at least on the Atlantic coast, *and least of all in the case of Massachusetts.*

Probably, however, what *Dr. Gannett* means by "peaceable separation," is the division of the United States into a Northern and Southern confederacy, by mutual consent. To make this possible and to make it "peaceable," several things must concur, not one of which is in the smallest degree probable. In the first place, there must *be* a "North," on that question, and it must be a unit. Suppose the free states were assembled in convention to-day, and the naked question were put, "will you surrender fugitive slaves, or will you dissolve the Union, break up the government, and take the consequences?" How many of the free states would be found voting for the last alternative? How many would *not* be found voting to adhere to a stipulation, which they made with complete unanimity

when the Constitution was formed? In the next place, in order to render such a "peaceable separation" possible, there must be conditions, not one of which would be likely to exist. There must be a possibility of living in peace side by side with the new slave-holding confederacy, without a treaty stipulation of the same purport. There must be a possibility of dividing the common property of the Union, upon fair, and equal, and *satisfactory* terms; terms that would leave no chances for future bickerings, no opportunity for future strife. We have just seen an ecclesiastical body, that has been rent in twain by these sectional controversies, and now stands divided into a "church North" and a "church South," obliged to resort to the final arbitrament of litigation, in order to make such a distribution of their common property. Does any man imagine that two separate NATIONS could be placed in precisely the same situation, without being obliged to resort to the dread arbitrament of the sword? The two branches of that religious communion, once bound together by one of the strongest of all religious organizations, and by the ties of the purest Christian love, separated with every "peaceable" demonstration, every expression of mutual good will. In sorrow, not in angor, did they rupture their great and holy ties, woven by the master mind of Wesley, and held in his powerful grasp, until he could entrust them to hands scarcely less powerful, and to wisdom scarcely less unerring than his own. But once broken assunder, strife and litigation became for them as inevitable as death. There is no strife for kindred nations, but on the field of battle: there is no litigation for kindred nations, burning with a sense of mutual injuries, but at the cannon's mouth.

But this is not all, nor chiefly the danger to be encountered. War—war of a terrible nature—between the several sections of the country—would not be the sole consequence of a dissolution of the Union. Whenever that dreadful event shall come, or rather before it can come, within every state of this Union—*here, in this our beautiful Massachusetts—here, in this very city*—brother must be arrayed against brother, friend against friend, neighbor against neighbor, and blood, our own blood, must flow down our streets like the water that wasteth itself upon the pavement. Let any man look back upon the state of things that existed in South Carolina in the time of Nullification, and ask himself whether the Nullifiers could have proceeded another step towards the accomplishment of their purpose, not only without coming into collision with the forces of

the United States, but without passing over the dead bodies of their own kindred, and friends, and neighbors. It is a historical fact, that the course of that insurrection was stayed, by a distinct intimation to its leaders by some of the first citizens of Charleston—that their own lives stood between its further progress and the authority of the Union. Nay, let any man look around him upon the excitement now existing here; let him open his eyes to the feelings that have come into collision; let him remember that the passion of loyalty is one of the strongest passions of the human breast; let him note how many men there are in every one of our communities to whom the Union is what gives dignity and elevation to political existence —to whom the Constitution is the idol of their hopes and prayers— to whom the great name of "American" is all in all—to whom the flag of their country is a beacon for ever beaming upon them its refulgent glories;—and he will see that to pursue the idea of "peaceable separation," is to pursue a phantom that can only cheat him to destruction. Queen Victoria has not more subjects who would fling away their lives in defence of her throne or person, than this Union has citizens who would sacrifice life, and all that it embraces, before they would permit or witness its destruction.

No! if the clergy of New England will preach the dissolution of the Union, let them do it with their eyes open to all that it involves. Let them not delude themselves with the idea that a government which has existed for seventy years, and has been constantly growing stronger and stronger;—which has raised this country to a degree of power and influence that nothing else could have enabled it to attain;—that is wrought into the texture of all our social relations, our civil polity, our guaranties of prosperity and peace; that stands the great, the sole protector of the institutions of the states against internal or external violence;—let them not, we repeat, indulge the supremely extravagant idea, that such a government can be overthrown without more awful social convulsions than history has ever yet recorded.

So that, turn where we will, there is no avoiding the question which Dr. Gannett means to put to us,—with this single exception, that the dissolution to which we must come, if we come to any, *cannot be "peaceable."* The question then is, whether the fulfilment of the clause in the Constitution requiring the surrender of fugitives, is and ought to be so repugnant to our moral sense, so

clearly and unequivocally wrong, that we ought to relieve ourselves from it, at all hazards and at every cost, and not permit it to be done.

This question we intend to discuss, soberly and carefully, at no distant day.

II.

WHERE LIES THE TRUTH.

The Rev. Dr. Gannett, to whose sermon we referred last Wednesday, — and who is entitled to be heard to say such things, if any man is — has told us "that if the South insist on making the North the scene of its activity in maintaining an institution from which the conscience and the heart of the North revolt, it will compel us to ask in serious and solemn deliberation, is the Union worth preserving on that condition?"

The Constitution of the United States, Art. IV. Sec. 2. No. 3, is as follows: —

"No person held to service or labor in one state, under the laws thereof, escaping into another, shall, *in consequence of any law or regulation therein*, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

It would scarcely seem possible that the exercise by the South of the right thus secured by the Constitution, is what Dr. Gannett means to describe as "making the North the scene of its activity in *maintaining*" the institution of slavery. But it is even so; and the duty has devolved upon the press, of examining Dr. Gannett's positions, and ascertaining whether he has presented an issue which men of conscience are bound to embrace. We trust that we need not say that we entertain for Dr. Gannett the highest personal respect. We know him, as this whole community know him, to be a man of high ability and singular purity of purpose. But we think that he has overlooked some very important distinctions, the oversight of which has led him to take a mistaken view of this subject, and to preach with *a reference to a dissolution of the Union*. —

The question that he has raised, is a moral one. Its discussion is as clearly within the province of other men, as it is of his.

We presume that all men, who are accustomed to reason on moral subjects, will admit that it is *one* important element in determining a question of duty, that we have promised to do or forbear the thing expected of us. Certainly, that element does not decide the whole question of right and wrong: — but it is as certainly to be taken into the account; and if the promise was made with full opportunity to look at the subject in all its bearings, and to estimate all its moral relations, the promise becomes an exceedingly grave and important element in the question of duty, whenever and wherever that question is raised. Now, in regard to this, the evidence is express and positive, that this clause in the Constitution was assented to by all our delegates in the Convention for framing the Constitution, and that it was never objected to, when we ratified that instrument; and that this provision was one of the chief considerations by means of which we obtained the surrender by the Southern states to the legislature of the Union, of the power to regulate commerce; — a concession of the utmost importance to us and the whole North. Moreover, it is equally well authenticated, that at the very time when this clause was put into the Constitution by the Convention sitting at Philadelphia, our own Nathan Dane, of Beverly, in Congress then sitting at New York, put a precisely similar provision into the Ordinance for the government of the Northwestern Territory, in the same sentence in which he provided that slavery should never exist there. This is pretty strong proof that when the people of Massachusetts made this stipulation in the Constitution, they considered that the act of surrendering fugitive slaves, by a people among whom slavery did not and could not exist, was an act morally fit to be performed. It shows, conclusively, that when the promise in question was made, it was made by those who understood the moral relations of the whole subject, and who were under no delusion as to the moral character of the stipulation; — for if there ever was a piece of human legislation framed with a careful, and conscientious, and enlightened regard to human rights and human duties, it was the great ordinance of 1877.

The next element, as we conceive, for determinating the question of whether we ought to submit to the execution of this clause of the Constitution, is to consider what we are, individually, or as a people, called upon to do, when a case arises under it. And here,

it is obvious, that with the exception of those of our citizens who have some official duty to perform in the matter, not a man among us needs to lift a finger. We have only to go about our own business, to leave the officers of the law to the *unobstructed* discharge of their duties,—and we have no responsibility, not even of a moral kind, in the act that is done. The officers who do the act may incur a moral responsibility, and it is to be presumed that they are men fit to determine for themselves the nature and degree of that responsibility. At any rate, it will not do for other men to determine it for them. But as to all other citizens, it is impossible for them to create for themselves any responsibility for what is done, except by the assertion of one or both of two grounds, which we will now examine; we do so because we find them assumed in Dr. Gannett's sermon.

Dr. Gannett seems to feel that there is some kind of desecration of our soil, in permitting a fugitive slave to be arrested upon, and removed from it. He speaks of our soil being "trampled by those whose attempts to reclaim their fugitive servants are conducted in a manner to wound our sensibilities and provoke our passions"—and he says, that we must "proceed to rescue our soil" from being so trampled.

Undoubtedly, our soil is consecrated to Freedom. But is it consecrated to Freedom for *all men*? What consecrates it to Freedom at all? Is it not so consecrated by *the Law*? And is it not so consecrated just so far as the Law has impressed that character upon it, and no farther? We presume that this will be admitted by all. The soil of Massachusetts is not consecrated to Freedom by the general sentiments or feelings of its inhabitants;—it is consecrated to Freedom by *the Laws* which they have ordained for its government, and just so far as those Laws determine the condition of those who are on it. But when we are looking for the Laws which determine the condition of persons upon our soil, it is obviously just as necessary to look to the Constitution of the United States, as it is to look to the Constitution of the state. The Federal Constitution is just as much the Law of Massachusetts as its own Constitution; it was enacted by the same authority, (so far as

we are concerned,) and not an individual can hold any important office under the latter, without swearing to support the former. Moreover, the Constitution of the United States, so far as it speaks, upon this matter of the condition of persons found on our soil, as well as upon all other matters embraced in it, is paramount to all laws. It is impossible for the state to make a law which shall consecrate its soil to the Freedom of men, who are made by the Constitution of the United States incapable of acquiring freedom by coming within our jurisdiction. In the same manner it would be impossible for us to make a law consecrating the soil of the state to the freedom of men, whom the General Government has stipulated by treaty to deliver up to a foreign nation.

The proposition is not true, therefore, that our soil is consecrated to the freedom of *all men*. There are certain men who are excepted from this advantage by the operation of the fundamental and paramount law of the country, which determines the character of our soil *as to them;* and while this remains so, there can be no desecration of our soil by removing those persons from it.

But Dr. Gannett seems also to feel that by permitting the execution of this clause of the Constitution we lend some sanction to slavery. He speaks of "a deeper question" to arise, "when the Southern master shall use the free states as the ground on which to assert the immaculate character of slavery," and of our "becoming ready participants in upholding a system which we abhor;" and he presents to us the alternative of dissolution.

We must inquire, therefore, and we must do it calmly and solemnly, whether it is true that our soil is used as the ground on which "to assert the immaculate character of slavery," or is in danger of being so used; and whether, by continuing to obey the Constitution, we do in fact become "participants in upholding the system." That slavery exists in the Southern states, Dr. Gannett does not deny. He says expressly that we cannot ignore its existence. He will probably not deny that it exists there by a law, or system of laws, over which we have no control, and for which we have no responsibility. One

of the persons subject to those laws comes here, and the master comes to reclaim him. Does he ask us to admit the immaculate character of the institution? Does he require any thing of us, except the admission of the fact that by the law of his own state he is entitled to the services of the person whom he seeks? Does he expect us to admit that law to be righteous, just, or founded on the great principles of truth and humanity? Is it necessary for the assertion of his claim, that we should admit any thing, but the naked fact that the law of his state exists? It seems to us that there is but one answer to be given to these questions; and that when Dr. Gannett speaks of the southern master asserting *here* "the immaculate character of slavery," he means nothing that can stand the test of examination, if he supposes the assertion to be one that we are obliged to admit, and do admit, when we permit the master to exercise the right of removal secured to him by the Constitution.

But it is always some help to the examination of a position like this, to resort to cases of a similar character, and we therefore turn to a case to which Dr. Gannett's position ought to be applicable, if it is applicable to this case. A treaty exists with a foreign power, by which it is provided that fugitives charged with certain crimes, shall be given up. The foreign government calls upon us to give up one of its subjects charged with the commission of one of those crimes, in the territory of that government. The law which makes his act a crime, which defines the evidence, and the mode of trial, and affixes the punishment, is the law of that country, not of this. Are we called upon, when we are required to surrender that person, to admit anything whatever, respecting the justice, reasonableness, or righteousness of that law? Is its "immaculate character" asserted on our soil? It is plain that nothing is asserted, and nothing is admitted, but the facts that the law exists, and that the individual in question, is the person who is amenable to it.

Nor is it any more correct, to say, that when we made this stipulation in the Constitution, we "upheld the institution of slavery," or that we now uphold it, by submitting to what the

Constitution requires. The Constitution requires of us no activity whatever. The stipulation is not a promise to do something in favor of slavery; it is a promise *not* to do something against it. It is an engagement not to use our free soil, and our system of freedom, as the means by which to entice or draw away from service and labor, those who in another state, are held to such service or labor, by the law of that state. The language of the clause stands at the head of this article; and the promise, or stipulation, contained in it, is perfectly clear, and free from difficulty. It is a promise, not to be active, but to stand neutral; not to uphold, but to forbear to attack; not to interfere for the purpose of sustaining, but to avoid all interference in the matter. And it is decisive of the correctness of this view, that it is the settled construction of the words "shall be delivered up," that they impose upon the state no active duty which the State is *obliged* to perform, but that all active measures belong to the general government, if the state does not see fit to take any.

There is, therefore, no question remaining, but the fundamental one, whether the promise not to use our free territory, and free laws, as the means of interfering in the relation of master and slave, as it exists in another state, was a promise morally fit to have been made, and morally fit to be performed.

All sound moralists, who have treated of such relations, are agreed that it is lawful, (we use the term in a moral sense,) for a nation or state, to exclude from its territory, any persons whom its well-being and happiness may require should be excluded. The right of a state to do this, is exactly co-extensive with the right of a family. The head, or legislative authority of a family, may determine what persons shall be admitted as inmates under its roof, and may exclude any whom its happiness or welfare make it necessary to exclude. This right is perfect. The legislative authority of a family, is the sole judge of the occasions on which, and the extent to which, it shall be exercised. This right exists in a state; and in the exercise of it, all states may and do determine for themselves, according to their own judgment, of what their internal wel-

fare requires, what persons shall be permitted to come from abroad, and dwell within their borders. Without this right, no state or nation could protect itself, or its people, from foreign vice, or the infections of disease, or from foreign pauperism. The mere fact that this right springs from the great laws of self-defence and self-preservation, shows that it rests upon moral foundations that are entirely impregnable.

If, then, the right exists in a state, to prohibit the entrance into its territory, of any class of persons whom its welfare may render it necessary to exclude, and the state is to determine for itself, the occasions on which this right is to be exercised, it follows that the state may use this right in any way, and for any purpose demanded by its real welfare. The right to exclude is perfect, and if the purposes for which it is used, are morally fit to be accomplished, the moral fitness of the whole transaction is perfect also.

Now, the situation of the state of Massachusetts, when the constitution of the United States was formed, was simply this: in the judgment of its people, it was necessary for their welfare and happiness, to "form a more perfect union" with the other states: to establish a different and a better government than the one previously existing: and to do this, for the attainment of the blessings which they foresaw would flow, and which we know *have* flowed, from the constitution of the United States. But in order to obtain this constitution, and these blessings, it was necessary for us to stipulate that we would not allow our own system of laws to become the means of drawing away those persons who are held to service and labor in the other states by *their* laws. In other words, it was necessary for us, in order to get the constitution and its benefits, to exercise our natural right of prohibiting those persons from coming and remaining here; for it is historically certain, that without this and certain other provisions relating to slavery, the constitution could not have been formed. This right we exercised. We entered into the stipulation; and that man, as it seems to us, must have his judgment singularly warped, who is not able to see that it was morally right for us to do so.

Is the stipulation, which it was morally right for us to make, now morally fit to be performed? We are not discussing the details of the Fugitive Slave Law, or the question whether a commissioner or a jury should be employed to adjudicate the facts of these cases. Neither are we addressing men whose feelings have been so injured by the great Nebraska wrong, that they cannot now pause to consider a moral question. Neither are we inquiring into the binding force or finality of one *Legislative Compromise* or another. Behind all these things, as Dr. Gannett well says, there is "a deeper question," and we must all come down to it and grapple with it, until we have solved it for ourselves, upon the immutable principles of truth and right. Is the promise which we made in the CONSTITUTION morally fit to be kept, or is it only fit to be broken?

We will not inquire whether the alternative of a dissolution of the Union can help us to determine this question. Men may differ about the probable consequences of that event. Our own view of them has been sufficiently expressed. But whether our promise is morally fit to be kept may be thought to depend on other considerations. We have already stated what that promise is, and we have shown that by it we obtained advantages and blessings which it was morally right for us to obtain, and of which we have ever since been in possession. This certainly does not weaken the force of its obligation. But let us go one step further.

Most of us believe slavery to be wrong. With the exception, however, of a certain class among us, we do not venture to sit in absolute judgment upon the slaveholder, and to pronounce him certainly guilty of a sin in continuing to hold his slaves. Dr. Gannett does not do this. He shrinks from the presumption of such an absolute judgment upon his fellow Christians. Like most men among us, while he thinks the institution both an evil and a wrong, he probably would admit it to be possible that the final Judge of all the earth may acquit the slaveholder of what *we* suppose to be wrong. We should not, therefore, think it right, apart from all questions of mere expediency, to fit out a ship from one of our ports and go

and rescue a dozen slaves from a Virginia master. And why? Because, while we have our own opinions about the right and wrong of the institution, we know that we are not entitled to pronounce an absolute judgment, and to interfere in a case where the question lies between the slaveholder and his God.

Have we any better right to use our free Commonwealth, and its system of free laws, for the same purpose? It is plain that in the relative situation of the free and the slave states of this Union — with the means of escape and transit that exist — if we were to abrogate, or refuse to abide by, the stipulation we have made, we should make our free soil and free institutions the means of just as direct and effectual an interference, as if we were to anchor a ship off the coast of Carolina, and give notice that all the slaves who could get on board should be free.

The provision of the Constitution, therefore, which declares that slaves escaping hither shall not be free *by the operation of our laws*, presents to us exactly the means of avoiding all interference with the relation of master and slave existing in another state; and its moral fitness cannot, as it seems to us, be denied or doubted by any person, except those who hold it to be a duty so to interfere. If we mean to interfere, and believe it right to do so, then we should disobey the Constitution, or seek its destruction. If we mean to wash our hands of all responsibility for or against the institution, the Constitution places us exactly where we ought to desire to stand.

III.

THE TRUTH MUST BE TOLD.

In our issue of Friday last, we endeavored to show that the duty required of us by the Constitution of the United States, in the matter of surrendering fugitives from service, is nothing more than to remain neutral in respect to the institution of slavery, as it exists in the states where it is now established by law; and that consequently our promise to remain neutral

in no way commits us to the support or maintenance of the institution. We now propose to show that Dr. Gannett, in the sermon which he has published, has made some singular mistakes, which justice and truth require to be corrected.

In pointing out to his hearers and the public the steps that we ought to take, Dr. Gannett says: "Fourthly, we may proceed to rescue our own soil from being trampled by those *whose attempts to reclaim their fugitive servants are conducted in a manner to wound our sensibilities and provoke our passions.*"

Dr. Gannett does not tell us how he would have our soil "rescued" from the foot of any citizen of the United States who has a legal right to be enforced here. While the Constitution of the United States exists, our territory must be open to the entrance of any citizen of another state who may wish to come here for a purpose made lawful by that Constitution. We have already endeavored to show that the particular purpose in question is not only lawful, but that when we made it lawful we did what was morally fit to be done. But Dr. Gannett asserts that this lawful purpose is pursued in "a manner to wound our sensibilities and provoke our passions." Let us examine the justice of this assertion.

If we have any sensibilities that are wounded by the mere fact of taking a fugitive away, we are indebted for those sensibilities to what is in truth a wrong view of our duty, unless we mean to make it a matter of duty to use our free territory as the means of interfering in the relation of master and slave. If we will take the provision of the Constitution as it really is, and will see in it a stipulation not to use our territory as the means of breaking up that relation which is established by the law of another state, our sensibilities will not be, and ought not to be, wounded.

But again, is there any justice in charging upon those who have come here to reclaim a fugitive servant, a mode of proceeding which "wounds our sensibilities and provokes our passions?" Dr. Gannett refers to "such scenes as we were made to endure a few days since," and he thinks we shall not be able to bear a repetition of them. May God, in his infinite

mercy, spare us that repetition! is a prayer that may well issue from all our hearts. But is there a shadow of justice in charging those scenes upon others? If we are not greatly misinformed, a citizen of Virginia came here to pursue a legal right, and conducted himself in its pursuit without giving just cause of offence to us. He took out the process provided by law, and caused the arrest of the person who was the subject of that process. That person was in the custody of the officers of the United States, in a part of a public building of which the United States are lessees, awaiting his trial. In the night, excited by men whose "sensibilities" and "passions" we presume Dr. Gannett does not mean to excuse, a mob broke into the building, attempted a rescue, and murdered one of the lawful civil aids of the officer whose duty it was to hold the prisoner. *Then, and not till then,* was a military force of any kind called in for the protection of the officers and the authority of the United States. All that followed is well known; and whatever may be thought of the conduct of our own civil authorities, or of the militia called out by them to keep the peace of the city, he who looks to "sensibilities" and "passions" as the cause of those demonstrations, must reason very strangely, if he can charge the existence and activity of those sensibilities and passions to the individual who had invoked the process of the law in aid of a right secured to him by the Constitution. We have read a very different view of these transactions in a sermon preached by another clergyman in a city not far distant — we mean the Rev. Dr. Peabody, of Portsmouth, New Hampshire. He said to his hearers: —

"And now I have not introduced this subject here because it has excited your feelings and mine for the past week; for it should rather be the office of the sanctuary and its ministers to allay agitation, to pour oil on troubled waters. This I would fain do now, so far as there has been bitterness or animosity in our excitement. For feelings of this kind there is no ground. The processes of law, that have been unflinchingly carried through, though by fearful instrumentalities, were be-

yond measure to be preferred to any possible mode of successful resistance. We have no reason to doubt that the functionaries that have aided in the work, (with perhaps a single exception,) did what they conceived to be their duty, — nay, I am not sure but that I ought to say, what was absolutely their duty under the circumstances in which, without their own seeking, they found themselves placed. I could not but attach great, if not conclusive weight to the reasoning of the United States Commissioner on this point; for, if under existing laws such a momentous issue as the personal liberty of the innocent must be tried, it certainly is much better that the adjudication should be in the hands of a conscientious and humane man, than that it should be left to those who could administer the law without compunction or relenting. We have also to thank the firmness and prudence of the officers of justice, that the cause of freedom was not stained and disgraced by the unbridled licentiousness of murderous outrage."

We have looked *in vain* through Dr. Gannett's sermon for a reasonable ground on which to put the charge that any proceedings, that have been had here, have been conducted in a manner that ought to have wounded our sensibilities or provoked our passions, so as to make it necessary to call out a military force. If he means to charge it upon the mode of trial required by the present law, we are ready to admit that if we could have a different mode of trial for these cases, it would be more satisfactory to this community. But we are not ready to admit that the mode of trial furnishes any excuse for mobs, or for resisting the authority of law, or for killing the officers whose duty it is to execute process. We are not ready to admit that when the legislative authority of the country has seen fit to prescribe a mode of proceeding, in a matter within its constitutional cognizance, it is for this community, or any other, to make that mode of proceeding an excuse for setting all law at defiance, and putting the officers of the law to death. We confess that we cannot see clearly into Dr. Gannett's meaning, although this is a matter on which every word that is uttered ought to be capable of no misconception. He says: —

"But when *the execution of that law not only inflicts a pang on our moral nature*, but is made doubly painful by the frequency and zeal with which it is carried into effect, we cannot, or if we can, we ought not to fold our arms and close our lips in patient acquiescence. The principle of the present Fugitive Slave Law was embodied in the similar act of Congress passed more than half a century ago, but for more than fifty years the South was content that the act should remain comparatively inoperative; let it take the same course now, and the North would acquiesce in the legal validity of a claim seldom enforced. But if the South evince a determination to put northern feeling to a trial on this question whenever it shall have an opportunity, northern men will not consent to witness often such scenes as we were made to endure a few days since. The question will not be simply whether *a law* shall be executed or resisted; a deeper question will arise when the southern master shall use the free states as the ground on which to assert the immaculate character of slavery. The alternative will then present itself, whether we will become ready participants in upholding a system which we abhor, or will seek a dissolution of the bond which holds us and the South together."

Does Dr. Gannett here refer to the execution of this particular *statute*, and the mode of surrendering a fugitive provided by it, or does he refer to the surrender of fugitives at all, under any law whatever? From the course of his remarks we are led to think that what, in his view, inflicts the pang on our moral nature, what we ought not to submit to, and what must compel us to seek a dissolution of our bond, is the surrender of these fugitives at all, by any process. He clearly intimates that the whole right secured by the Constitution ought to be "comparatively inoperative," and that unless it becomes so, we must seek a dissolution. If this is his meaning, then it is not the particular mode of proceeding, that ought to raise this transcendent and awful question, which he says must come. But if this is not his meaning, if *the present* is what we ought not to acquiesce in, then we are quite

sure that that dreadful question need not be raised, upon the mere details of process, method and form of trial.

But Dr. Gannett intimates that the *frequency* with which a legally valid claim is asserted, may become a reason for our resorting to the dread alternative of dissolution. What are to be the limits of our forbearance? What number of instances of assertion of the claim, out of the whole number that may arise, will be consistent with the right, becoming "comparatively inoperative?" Surely, in a matter so sad and fearful as the ultimate remedy which Dr. Gannett more than alludes to, there ought to be some clear path of duty, something that conscience and reason can lay hold of, as a definite test of what is right, when we announce such an alternative. If that test is to be found in the apparent determination of the South to assert the right, "whenever it shall have opportunity," how are we to know that such a determination exists, or that every opportunity has been used? We cannot think that we have yet begun to see such a determination, for there must have been a vast number of instances within the last four years, in which the right might have been asserted, and in which it has not been.

There is one statement made by Dr. Gannett which we ought doubtless to attribute to a less accurate acquaintance with the course of legislation and jurisprudence on this subject, than it might have been desirable for him to have had. We refer to his statement that the present law is the same in principle with the one passed in 1793, and that the South was content that the former law should remain "comparatively inoperative" for more than fifty years. The inference from this is, that we owe the present law to some new activity on the part of the South, or some new determination to assert a right over which they had slumbered for fifty years. We believe this to be an entire mistake. We owe the present fugitive slave law to the fact that the old law had become inefficient, and so far as lay in our power, we had made it inefficient by our own legislation. Other free States had done the same thing. The law of 1793, such as it was, was resorted to and constantly used, until this State, and many others of the free

States, saw fit to deprive it of its efficiency by prohibiting their magistrates from executing it.

The act of 1793 authorized the claimant of a fugitive from service to arrest and take him before a District or Circuit Judge of the United States, *or any magistrate of a city, county or town corporate* in the State where he might be found, for the purpose of obtaining a certificate, on proof of the proper facts. So far was it from being a law "comparatively inoperative," that down to the year 1842 it was constantly resorted to; so much so that in process of time its constitutional validity was contested in the courts of three of the free states, (one of them being Massachusetts,) and in all of them its validity was affirmed. Mr. Justice Story, delivering the judgment of the Supreme Court of the United States in Prigg's case, in 1842, said of it —

"The same uniformity of acquiescence in the validity of the act of 1793, upon the other part of the subject-matter, that of fugitive slaves, has prevailed throughout the whole Union until a comparatively recent period. Nay, being from its nature and character more readily susceptible of being brought into controversy in courts of justice, than the former, [that relating to fugitives from justice,] and of enlisting in opposition to it the feelings and it may be the prejudices of some portions of the non-slaveholding states, it has naturally been brought under adjudication in several States of the Union, and particularly in Massachusetts, New York and Pennsylvania; and on all these occasions its validity has been affirmed."

At length the constitutional validity of this law became a question in the Supreme Court of the United States, in the case just quoted from, and a majority of the court decided, that so far as it undertook to confer authority upon state magistrates, it was valid, and that such magistrates might exercise the authority, unless prohibited by state legislation; but that the states might constitutionally prohibit their magistrates from acting, if they saw fit.

Chief Justice Taney, who dissented from the views of a majority of the court on this point, (relative to the power of the States to prohibit their magistrates from acting) said —

"Indeed, if the state authorities are absolved from all obligation to protect this right, and may stand by and see it violated without an effort to defend it, the act of Congress of 1793 scarcely deserves the name of a remedy. The state officers mentioned in the law are not bound to execute the duties imposed upon them by Congress, unless they choose to do so, or are required to do so by a law of the state; and the State Legislature has the power, if it thinks proper, to prohibit them. The act of 1793, therefore, must depend altogether for its execution upon the officers of the United States named in it. And the master must take the fugitive, after he has seized him, before a judge of the District or Circuit Court, residing within the state, and exhibit his proofs, and procure from the judge his certificate of ownership, in order to obtain the protection in removing his property which this act of Congress professes to give. Now, in many of the states, there is but one district judge, and there are only nine states which have judges of the Supreme Court residing within them. The fugitive will frequently be found by his owner in a place very distant from the residence of either of these judges: and would certainly be removed beyond his reach before a warrant could be procured from the judge to arrest him, even if the act of Congress authorized such a warrant. But it does not authorize the judge to issue a warrant to arrest the fugitive; but evidently relied on the state authorities to protect the owner in making his seizure. And it is only when the fugitive is arrested, and brought before the judge, that he is directed to take the proof, and give the certificate of ownership. It is only necessary to state the provisions of this law, in order to show how ineffectual and delusive is the remedy provided by Congress, if state authority is forbidden to come to its aid."

A majority of the Court decided, as we have said, that the states could prohibit their magistrates from acting, if they

saw fit; but at the same time they decided that such action of state magistrates was consistent with the provisions of the Constitution of the United States. It is not important to consider here, the grounds of this decision, but our object merely is to show that the accurate prediction of the Chief Justice was at once fulfilled, and the law became practically inoperative after 1842.

In March, 1843, the Legislature of Massachusetts passed a law, prohibiting their magistrates, under severe penalties of fine and imprisonment, from acting under the United States statute of '93. Other free states did the same thing. Although the Supreme Court of the United States had decided that state magistrates, if not prohibited by state laws, could constitutionally exercise the jurisdiction conferred, we chose to prohibit our magistrates from doing it. One whole class of magistrates was thus stricken from the statute, leaving only the Circuit and District Judge of the United States in each state to execute it. The law thus became virtually a dead letter in many of the larger states, which had thus withdrawn all aid from the right secured by the Constitution, and a new law of the United States became necessary, in order to supply a sufficient number of magistrates to execute the duty plainly implied in the Constitution.

It is not true, therefore, that the act of 1850 owes its existence to any new activity of the South, in asserting a right over which they had slumbered for fifty years. It owes its existence to the unfriendly legislation of several of the free states; — legislation which originated in an unwillingness to aid in enforcing the constitutional rights of the South. Before the act of 1850 was passed, Mr. Webster said in the Senate,

"And I desire to call the attention of all sober minded men, of all conscientious men, in the North, of all men who are not carried away by any fanatical idea, or by any false idea whatever, to their constitutional obligations. I put it to all the sober and sound minds at the North as a question of morals, and a question of conscience. What right have they, in their legislative capacity, or any other

capacity, to endeavor to get round this Constitution, to embarrass the free exercise of the rights secured by the Constitution to the persons whose slaves escape from them? None at all; none at all. Neither in the forum of conscience, nor before the face of the Constitution, are they justified, in my opinion. Of course it is a matter for their consideration. They probably, in the turmoil of the times, have not stopped to consider of this; they have followed what seemed to be the current of thought and of motives as the occasion arose, and they neglected to investigate fully the real question, and to consider their constitutional obligations; as I am sure, if they did consider, they would fulfill them with alacrity. Therefore, I repeat, sir, that here is a ground of complaint against the North well founded, which ought to be removed, which it is now in the power of the different departments of this government to remove; which calls for the enactment of proper laws authorizing the judicature of this government, in the several states, to do all that is necessary for the recapture of fugitive slaves, and for the restoration of them to those who claim them. Wherever I go, and wherever I speak on the subject, and when I speak here I desire to speak to the whole North. I say that the South has been injured in this respect, and has a right to complain; and the North has been too careless of what I think the Constitution peremptorily and emphatically enjoins upon her as a duty."

Although the act of 1850 contains much more stringent provisions than the act of 1793, on some points, it is not at all probable that any new law would have been deemed necessary, if the old one had not become almost useless, by the course of legislation above described. That legislation of the states we believe to be founded in wrong views of the moral relations of the whole subject. But an opposition was raised years ago against rendering any aid in the restoration of fugitives, and the consequences of it have naturally followed. We are now in a position in which we are not obliged to render any aid. Do we mean to be

content with that exemption, or do we mean to go further and *obstruct* the government of the United States, on whom we have cast the burthen? And if that government is not willing to be obstructed in the discharge of its constitutional duties, do we mean to say that we must dissolve the Union?

We will add one word concerning our motive in making these remarks. It will be impossible for the people of Massachusetts successfully to contend against the further addition of slave territory to the Union, if they are untrue to their plain and palpable constitutional duties. We cannot carry with us the general sentiment of the country, we cannot carry with us the entire *North*, in any thing we ought to do or oppose, if we are to throw away our natural influence, by repudiating any part of the Constitution. We may make or unmake local parties; we may call ourselves by this name or that; but let it once be understood that we do not recognize the obligations imposed by a clear and precise provision of the Constitution, or that we mean to tolerate the conduct of men who swear to support it with a mental reservation, and neither the cause of human freedom, nor any other cause, will ever owe any thing to *our* influence or exertions.

We are now, as a state, and individually, entirely exonerated from all active interference in aid of this constitutional right of the South, when the exercise of the right is not obstructed or opposed. All that is asked of us is, that we will not resist the authority of the United States, when executing their own laws. All our natural sympathies and all our natural wishes, in each case, that the individual may be released, if he can be lawfully, will at all times find a sufficient and perfectly lawful expression through the efforts of the legal profession. No excitements, no public meetings, no mobs, are necessary to prompt the members of that profession to their duty. Probably there is not a city or town on this continent, where the most friendless being in the world cannot have the aid of legal ability and astuteness, in any circumstances of danger to his liberty or life. Certainly, there is no such city or town in Massachusetts. On the very day after the surrender of Burns, a poor wretch of the same color, unable

to speak a word of English, was put on trial for his life, in the same court room. No crowds attended, no popular excitement created sympathy in his behalf, or furnished stimulus to his defenders. And yet there sat, day after day, with unwearied patience and unflagging zeal, two counsel; probably unpaid, certainly without popular applause, and gave to this miserable outcast all that talent and learning, united with benevolence, could do for him. So it always has been, and so it always will be.